



DEPARTMENT OF THE TREASURY

2020 Report on the Effectiveness of the Terrorism Risk Insurance Program

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Request for comment.

SUMMARY: The Terrorism Risk Insurance Act of 2002, as amended (TRIA), established the Terrorism Risk Insurance Program (TRIP or Program). TRIA requires the Secretary of the Treasury (Secretary) to submit a report to Congress by June 30, 2020 concerning the overall effectiveness of TRIP and other related matters. To assist the Secretary in formulating the report, the Federal Insurance Office (FIO) within the Department of the Treasury (Treasury) is seeking comments from the industry and other stakeholders on the statutory factors that the report must analyze, as well as any other feedback about the effectiveness of TRIP.

DATES: Submit comments on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>, in accordance with the instructions on that site, or by mail to the Federal Insurance Office, Attn: Richard Ifft, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. Because postal mail may be subject to processing delays, it is recommended that comments be submitted electronically. If submitting comments by mail, please submit an original version with two copies. Comments concerning the 2020 report on the effectiveness of the Program should be captioned with “2020 TRIP Effectiveness Report.” In general, Treasury will post all comments to www.regulations.gov without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. All comments, including attachments and

other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly. Where appropriate, a comment should include a short Executive Summary (no more than five single-spaced pages).

Additional Instructions. Responses should also include: (1) the data or rationale, including examples, supporting any opinions or conclusions; and (2) any specific legislative, administrative, or regulatory proposals for carrying out recommended approaches or options.

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, (202) 622-2922, or Lindsey Baldwin, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, (202) 622-3220. Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION

I. Background

TRIA¹ requires participating insurers to make insurance available for losses resulting from acts of terrorism, and provides a federal government backstop for the insurers' resulting financial exposure. TRIA established TRIP within Treasury, and TRIP is administered by the Secretary with the assistance of FIO. TRIA Section 104(h)(2) requires the Secretary to prepare and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on, among other things, the impact and effectiveness of TRIP (the Effectiveness Report). TRIA was reauthorized in December 2019 with an additional requirement that Treasury analyze in the Effectiveness Report the availability and affordability of terrorism risk insurance, including specifically for houses of

¹ Pub. L. No. 107-297, 116 Stat. 2322 (2002), as amended. The provisions of TRIA appear in a note of the United States Code (15 U.S.C. 6701 note), and, therefore, references to the provisions of TRIA are identified by the sections of the law [*e.g.*, "TRIA § 102(1) (definition of an "act of terrorism)"]].

worship.² The Effectiveness Report that is to be submitted by June 30, 2020 will also include an analysis of information that is being collected by Treasury through the 2020 TRIP Data Call (including information relating specifically to houses of worship),³ as well as data that Treasury collected in prior TRIP Data Calls.⁴ Treasury structures its data calls to obtain information appropriate to analyze the effectiveness of TRIP and the competitiveness of small insurers in the terrorism risk insurance marketplace,⁵ as well as to assist Treasury more generally in the administration of TRIP.

II. Solicitation for Comments

Treasury seeks comments on each of the following factors, which Treasury is required under TRIA Section 104(h)(2) to consider in the Effectiveness Report:

1. The overall effectiveness of TRIP;
2. The availability and affordability of terrorism risk insurance, including specifically for places of worship;
3. Any changes or trends you have observed relating to the data Treasury collects in its annual TRIP Data Calls;
4. Whether any aspects of TRIP have the effect of discouraging or impeding insurers from providing commercial property and casualty insurance coverage or coverage for acts of terrorism; and
5. Any impact of TRIP on workers' compensation insurers in particular.

² Pub L. 116-94, 133 Stat. 2534.

³ 2020 Terrorism Risk Insurance Program Data Call, 85 FR 15036 (March 16, 2020).

⁴ The requirements for TRIP Data Calls are set forth in TRIA § 104(h)(1) and in Treasury regulations. See 31 CFR Subpart F.

⁵ TRIA § 108(h) requires the Secretary to submit a report to Congress every other year studying small insurers participating in the Program, and identifying any competitive challenges small insurers face in the terrorism risk insurance marketplace.

By collecting information and views on the factors listed above, Treasury will enhance the accuracy and value of the Effectiveness Report to Congress. This request for comment will provide stakeholders the opportunity to provide qualitative feedback and analysis that may not be otherwise observable through the results of the TRIP Data Calls. Comments from insurers providing data, other stakeholders, and the public will assist the Secretary in the formulation of the Effectiveness Report and more generally in the administration of TRIP.

In addition to seeking comments on the above factors outlined in Section 104(h)(2) of TRIA, Treasury also seeks comments on the following topics:

1. Whether any lines of insurance or coverages within certain lines of insurance currently subject to the Program do not require the support of TRIP;
2. The market for standalone terrorism risk insurance that is written outside of TRIP, including the reasons such coverage is offered and obtained, and whether the existence of such insurance provides any insights into the effectiveness of the Program;
3. The availability and affordability of private reinsurance, or capital markets support, for terrorism risk insurance exposures (both those exposures currently subject to TRIP as well as those otherwise held by insurers participating in TRIP);
4. The extent to which reinsurance for terrorism risk is being obtained as part of overall catastrophe reinsurance programs, the reasons for obtaining reinsurance for terrorism risk in this manner, and how—if at all—this has affected market capacity for terrorism risk reinsurance generally;
5. Any factors that impede private reinsurance or capital markets support for terrorism risk insurance;

6. The availability of terrorism risk insurance coverage for losses arising from nuclear, biological, chemical, or radiological (NBCR) exposures, and the availability of private reinsurance or capital markets support for such terrorism risk insurance;
7. Terrorism risk insurance issues presented by cyber-related losses, and the impact of TRIP in connection with such exposures, including your views as to the nature of the cyber-related terrorism losses that are included within TRIP;⁶
8. Any potential changes that would encourage the take up of insurance for cyber-related losses arising from acts of terrorism as defined under TRIA, including but not limited to the modification of the lines of insurance covered by TRIP, revisions to the current sharing mechanisms for cyber-related losses, and further changes to the certification process as it would apply to a cyber-related terrorism loss;
9. Private reinsurance or capital markets support for cyber-related losses arising from acts of terrorism as defined under TRIA; and
10. Any other issues relating to TRIP, terrorism risk insurance, or reinsurance that may be relevant to FIO's assessment of the effectiveness of TRIP in the Effectiveness Report.

Dated: April 21, 2020.

Steven E. Seitz,

Director, Federal Insurance Office.

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⁶ Treasury has previously addressed the application of TRIP to policies covering cyber-related losses. 81 FR 95312 (December 27, 2016).

